

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION

Before the Commissioner of Financial and Insurance Regulation

In the matter of

XXXXX

Petitioner

File No. 90824-001

v

Blue Care Network of Michigan
Respondent

Issued and entered
This 9th day of September 2008
by Ken Ross
Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On July 8, 2008, XXXXX (Petitioner) filed a request for external review with the Commissioner of Financial and Insurance Regulation under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* On July 15, 2008, after a preliminary review of the material submitted, the Commissioner accepted the request for external review.

The issue in this matter can be resolved by analyzing the Blue Care Network (BCN) BCN 10 certificate of coverage and its related Healthy Blue Living rider. It is not necessary to obtain a medical opinion from an independent review organization. The Commissioner reviews contractual issues under MCL 500.1911(7).

II
FACTUAL BACKGROUND

Effective January 1, 2008 the Petitioner's health benefits renewed. At the time, she was conditionally enrolled in BCN's Healthy Blue Living program which is described in the Healthy Blue Living rider as "the BCN coverage program designed to promote or maintain good health

and/or prevent disease or the progression of disease for Members in the Program. The Program rewards Members that maintain or adopt healthier behaviors by making lower copayments, and/or coinsurance and deductibles available to those Members.” BCN terminated the Petitioner’s enrollment in the Healthy Living Program effective March 31, 2008 and returned her to the standard plan. Petitioner unsuccessfully appealed her termination from the program.

Petitioner exhausted BCN’s internal grievance process and received its final adverse determination letter dated June 27, 2008.

III ISSUE

Did BCN properly deny the Petitioner continued coverage in the Healthy Blue Living program?

IV ANALYSIS

Petitioner’s Argument

The Petitioner wants her coverage in the Healthy Blue Living program restored with an effective date of April 1, 2008. In a letter dated July 17, 2008 to the Office of Financial Insurance Regulation, the Petitioner stated:

I was never notified of my insurance co-pay change until I filled a prescription. My doctor’s staff faxed my paperwork in Jan. 07 & Jan. 08. I filled out a health form in Jan. 07. I did not realize I was required to do this again in Jan. 08.

My health routine has not changed. . . . I walk a mile at work, do not smoke & eat healthy. I attend wellness meetings and encourage co-workers.

If I would have known paperwork was needed, I would have submitted. I quickly -- promptly called my doctor’s office & requested the health form to be refaxed. I with great difficulty completed my health form on line (not computer friendly).

Petitioner says that BCN needs to make contact with individuals who have not completed the requirements before the deadline. They also need to find an easy method for completing the health risk appraisal form. She believes since she has maintained an excellent

level of health her benefits should be restored effective April 1, 2008 into the Enhanced level and additional copayments should be refunded.

Respondent's Argument

In its final adverse determination, BCN denied Petitioner participation in the Healthy Blue Living program beyond March 31, 2008. BCN states that the benefits became effective on January 1, 2008 and reminder notices regarding the requirements for the enhanced benefit plan were sent out on February 15 and February 21, 2008. In addition, an automated reminder phone call was placed to the Petitioner on March 7, 2008. BCN offered this explanation in its final adverse determination:

The required documentation to remain in the Enhanced benefit level was not completed in the required time period. The Panel confirmed that you did not complete your Health Risk Appraisal, as required by the [Healthy Blue Living] program. Therefore, we have maintained our decision and your contract will remain in the Standard benefit level. You may re-apply for our enhanced benefit at your next open enrollment.

BCN contends that changing Petitioner's coverage to the standard plan is consistent with the terms of the rider.

Commissioner's Review

The issue in this case is whether BCN properly denied continued coverage in its Healthy Blue Living rider's enhanced benefit program. The rider describes the requirements for continuing coverage in the Healthy Blue Living program after 90 days. The rider includes the following provision:

HOW TO EARN THE HEALTHY LIVING ENHANCED BENEFITS IN THE FIRST YEAR OF ENROLLMENT

Upon enrollment each Healthy Living Eligible Member will receive Enhanced Benefits for a 90-day period. To continue receiving the Enhanced Benefits each Healthy Living Eligible Member must take the following steps:

1. Within 90 days of enrollment each Healthy Living Eligible Member must complete a Health Risk Assessment (HRA) and a Healthy Living Enrollment form which will assess the

Member's medical condition and/or lifestyle behavior in relation to the following areas:

- Blood pressure
- Smoking
- Cholesterol
- Blood sugar
- Weight
- Alcohol use

Program re-enrollment was contingent on the Petitioner again meeting the requirements of the rider by March 31, 2008 to stay in the enhanced plan. However, the Health Risk Appraisal form was not received prior to that deadline. Though she may have had a reasonable explanation, the Petitioner's form was not submitted within 90 days as required under the terms of the rider. The Commissioner, therefore, finds that BCN's denial is consistent with its Healthy Blue Living rider.

V ORDER

The Commissioner upholds BCN's June 27, 2008, final adverse determination.

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the circuit court for the county where the covered person resides or in the circuit court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Regulation, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.